

MEMORANDUM OF LAW

DATE: September 2, 1992

TO: Councilmember Valerie Stallings

FROM: City Attorney

SUBJECT: Proposed Serra Mesa Library

By memorandum dated August 24, 1992, copy attached, you asked the following two questions with regard to the proposed Serra Mesa public library:

1. What effect, if any, would the passage of the proposed modifications to Charter section 55 have on the plans to locate the library on dedicated park land?
2. Does the Serra Mesa Community Plan need a community plan amendment to allow the library to be sited within the dedicated park land?

Attached for your information is a copy of Charter section 55 with the proposed changes. You will note that the changes generally relate to roads and the requirement for special votes to establish nonpark roads.

The California Supreme Court, as early as 1906, determined that a public library is a valid and legal use of dedicated park land. *Spires v. Los Angeles*, 150 Cal. 64 (1906). Therefore, it does not appear that the proposed Charter modification, if approved, would affect the proposal to construct the Serra Mesa public library on dedicated park land.

With regard to your second question, unless the Serra Mesa Community Plan contains specific limitations regarding the siting of a public library, it would not be necessary to amend the community plan since, as noted above, the placement of a library in a dedicated park is a legal and valid use of park property.

If you have any further questions, please contact me.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug

Deputy City Attorney

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Attachments

cc Fred Conrad

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